

IN RE: PETITIONS FOR SPECIAL HEARING  
AND ZONING VARIANCE - SW/S  
Circle Drive & NW/S Leeds Ave.  
(1259 Circle Drive)  
13th Election District  
1st Councilmanic District

BEFORE, THE  
DEPUTY ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 90-289-SPHA

William J. Gerber, et ux  
Petitioners

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve a nonconforming use of the subject property as a two apartment dwelling or in the alternative, variances to the lot width of 50 feet at the front building line in lieu of the required 80 feet, a minimum side yard setback of 3 feet in lieu of the required 15 feet, and a sum of both side yards of 8 feet in lieu of the required 35 feet, for the conversion of said dwelling, in accordance with Petitioner's Exhibit 1.

The Petitioners, by the Honorable Vernon L. Neilson (Ret.), through a Power of Attorney, appeared and testified on behalf of Petitioners, and was represented by Elmer L. McConkey, Esquire. Also appearing on behalf of the Petitioners were U. Yeakel, Joseph A. Novak and Irene Alberter. Appearing as a Protester in the matter was Mrs. Patricia Lindblade, adjoining property owner.

Testimony indicated that the subject property, known as 1259 Circle Drive, consists of 12,500 sq. ft. zoned D.R. 5.5, and is improved with a single family dwelling used as two apartments. As a result of an inquiry from the Zoning Enforcement Division of this office, the Petitioners filed the instant Petition for Special Hearing to establish a nonconforming use of the subject property as two apartments, or in the alternative, the aforementioned variance Petition. Testimony indicated that Petition-

ers, who moved to Florida in approximately August, 1989, purchased the subject property in 1971 from a Grady and Eleanor Ward. Judge Neilson submitted a letter dated December 11, 1989 from Bruce R. Bolling, M.D. which indicated he is the physician for William Gerber and recommends that he not travel to Baltimore to attend the subject hearing due to poor health. Judge Neilson testified that he has known the Petitioners for a number of years. He further indicated that he knew them at the time of their purchase of the subject property, and visited them on a frequent basis when they resided at 1259 Circle Drive. He testified that at the time of Petitioners' purchase of the property in 1971, the house was set up as a two apartment dwelling, with one apartment consisting of the first floor and basement level of the house, and the second apartment contained entirely on the second floor. Judge Neilson testified that there is no interior entrance from one apartment to the other. Judge Neilson further testified that he has personal knowledge that Petitioners had resided in the first floor apartment from 1971 to August 1989 when they moved to Florida, and the tenant, who had been residing on the second floor, moved down to the first floor apartment. Thereafter, the Petitioners rented out the second floor apartment. Further, he indicated that at all times since their ownership of the property, the Petitioners have continuously and without interruption used the dwelling as two apartments other than for brief periods during a change in tenancy.

Mr. Yeakel testified that he has resided at 1226 North Avenue since January 1946. He testified that the rear yard of his property abuts the rear yard of the subject property. Mr. Yeakel testified that at the time he moved to the area, 1259 Circle Drive, is owned by Mr. & Mrs. Ward

and used as a two apartment dwelling until their sale of the property in 1971 to Petitioners.

Petitioners called Joseph Novak who has resided at 1232 Ten Oaks Road since 1941. Mr. Novak testified that in 1944 he met Mr. Ward, the previous owner of the subject property, when they both worked at the Baltimore Gas & Electric Company. He testified that at that time, he visited Mr. & Mrs. Ward in their home and has personal knowledge that the dwelling was used as two apartments. He further testified that from time to time he would visit the property to assist Mr. Ward as a friend or in his capacity as a part-time employee with Dafnis Appliance Company to install air conditioners.

Petitioners' last witness was Mrs. Alberter who testified that she has resided in one of the apartments at 1259 Circle Drive for the past 5 years. She testified that when the Petitioners moved to Florida, she moved from the second floor apartment to the first floor apartment. She further testified that there was a period of time after she moved to the first floor, that she and the Petitioners shared the first floor and basement apartment.

Mrs. Lindblade testified that she has resided on the adjoining property since 1979. She does not dispute that at the time she moved to the area, the subject property was used as two apartments. She indicated that she contacted the Zoning Enforcement Office concerning this property as she had questions and concerns about the property being converted to three apartments.

In response to the Protester's concerns, the Petitioners agreed that the nonconforming use requested is limited to two apartments and that an inspector from the Zoning Enforcement Office would be permitted access

from time to time, upon reasonable notice, to make an inspection of the property to insure there has been no conversion to three apartments.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning. The uncontested testimony presented indicated the subject property was used as a two apartment dwelling in 1941 prior to the effective date of the zoning regulations.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-conforming. See *McKenney v. Baltimore County, Md.*, 39 Md. App. 257, 385 A.2d 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use?

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind?

(c) Does the current use have a substantially different effect upon the neighborhood?

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use?

*McKenney v. Baltimore County, Md.*, Supra.

It is clear from the testimony that there has been no change in use and/or enlargement of such use.

After due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the subject property has been used continuously and without interruption as two apartments since prior to the effective date of the zoning regulations, and as such, a legal nonconforming use exists.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions filed, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted and the Petition for Zoning Variance shall be dismissed as moot.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of February, 1990 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a two apartment dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The relief granted herein is limited to the nonconforming use of the subject property as a two apartment dwelling unit only.

3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

IT IS FURTHER ORDERED that the Petition for Zoning Variance to permit a lot width of 50 feet at the front building line in lieu of the required 80 feet, a minimum side yard setback of 3 feet in lieu of the required 15 feet, and a sum of both side yards of 8 feet in lieu of the required 35 feet for the conversion of the subject dwelling be and is hereby DISMISSED as moot.

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Townson, Maryland 21204  
(301) 387-3353

J. Robert Haines  
Zoning Commissioner

February 6, 1990

Elmer L. McConkey, Esquire  
1320 Linden Avenue  
Arbutus, Maryland 21227

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE  
SW/S Circle Drive and NW/S Leeds Avenue  
(1259 Circle Drive)  
13th Election District - 1st Councilmanic District  
William J. Gerber, et ux  
Case No. 90-289-SPHA

Dear Mr. McConkey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted and the Petition for Zoning Variance has been dismissed in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

ANN-bjs  
cc: People's Counsel  
file

#### PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 506.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve \_\_\_\_\_ non conforming use of the subject property for \_\_\_\_\_ two apartments.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/we do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (Type or Print Name) Signature Address City and State	Legal Owner(s): William J. Gerber (Type or Print Name) Signature Address City and State
Attorney for Petitioners: (Type or Print Name) Signature Address City and State Attorney's Telephone No.	1259 Circle Drive Arbutus, Maryland 21227 City and State Name, address and phone number of legal owner, owner's purchase or proprietary to be contacted Elmer L. McConkey, Esquire 1320 Linden Avenue Arbutus, MD 21227 242-4414 Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 17th day of February, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 17th day of February, 1990, at 2 o'clock P.M.

J. Robert Haines  
Zoning Commissioner of Baltimore County



146  
PETITION FOR ZONING VARIANCE  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-289-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 402. To permit an existing two apartment dwelling on a lot with a 50 ft. width at front building line in lieu of the required 80 ft. with a minimum rear yard setback of 15 feet and sum of both side yards of 8 feet in lieu of the required 15 feet and 35 feet respectively.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty.)

TO BE ESTABLISHED AT HEARING

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (Type or Print Name) William J. Gerber  
Signature: [Signature]  
Address: [Address]  
City and State: [City and State]

Legal Owner(s): (Type or Print Name) William J. Gerber  
Signature: [Signature]  
Address: [Address]  
City and State: [City and State]

Attorney for Petitioner: (Type or Print Name) Elmer L. McConkey  
Signature: [Signature]  
Address: [Address]  
City and State: [City and State]  
Attorney's Telephone No.: [Telephone No.]

1259 Circle Drive, 21227  
Baltimore, Maryland, 21227  
Arbutus, MD 21227

ORDERED By the Zoning Commissioner of Baltimore County, this 17 day of Jan, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commission of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 17 day of Jan, 1989, at 2 o'clock.

J. Robert Haines  
Zoning Commissioner of Baltimore County

FILED 10/24/89 BY JLL  
ANYTIME OR DAY  
1 HR HANG TIME

146  
90-289-SPHA

PETITIONERS: William & Sylvia Gerber  
PROPERTY: 1259 Circle Drive, Baltimore, Maryland 21227

ZONING DESCRIPTION

BEGINNING on the southwest side of Circle Drive at the distance of 275 feet northwesterly from the corner formed by the intersection of the southwest side of Circle Drive and the northwest side of Leeds Avenue, running thence northwesterly on the southwest side of Circle Drive 50 feet, thence southwesterly and parallel with Leeds Avenue 250 feet to the lot of ground heretofore conveyed to one Kratz, thence southeasterly binding on said lot of ground heretofore conveyed to one Kratz 50 feet and thence northeasterly in a straight line and parallel with Leeds Avenue 250 feet to the southwest side of Circle Drive and the place of beginning. Being Lot No. 10 on the Plat of Leeds, which Plat is recorded among the Plat Records of Baltimore County in Plat Book WPC No. 5, folio 41. The improvements thereon being known as No. 1259 Circle Drive located in the 13th election district.

WORKMAN, STYLES and MCCONKEY, P. A.  
ATTORNEYS AT LAW  
1820 LINDEN AVE.  
ARButus, MD. 21227  
842-4414

AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

PETITIONERS EXHIBIT 20

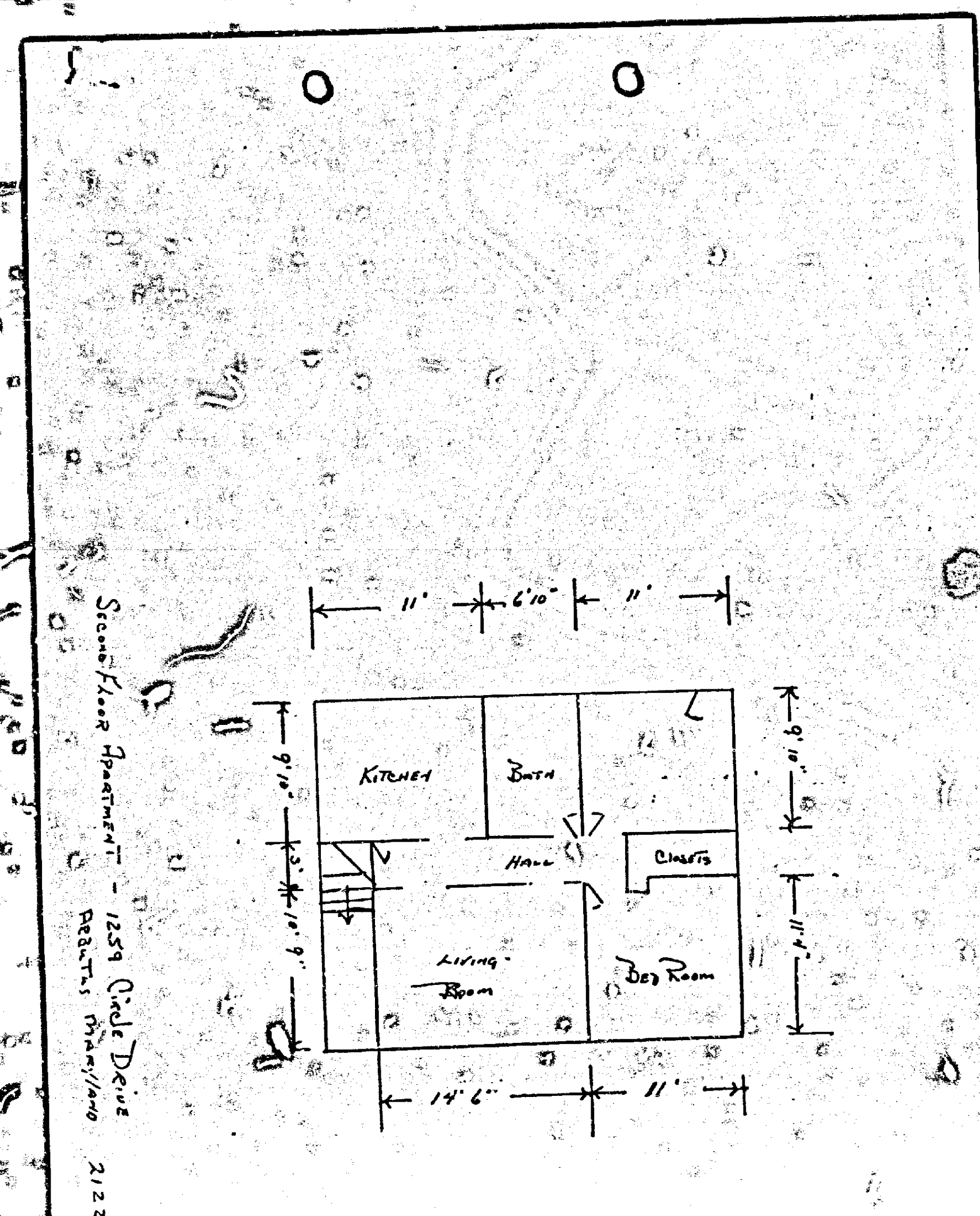
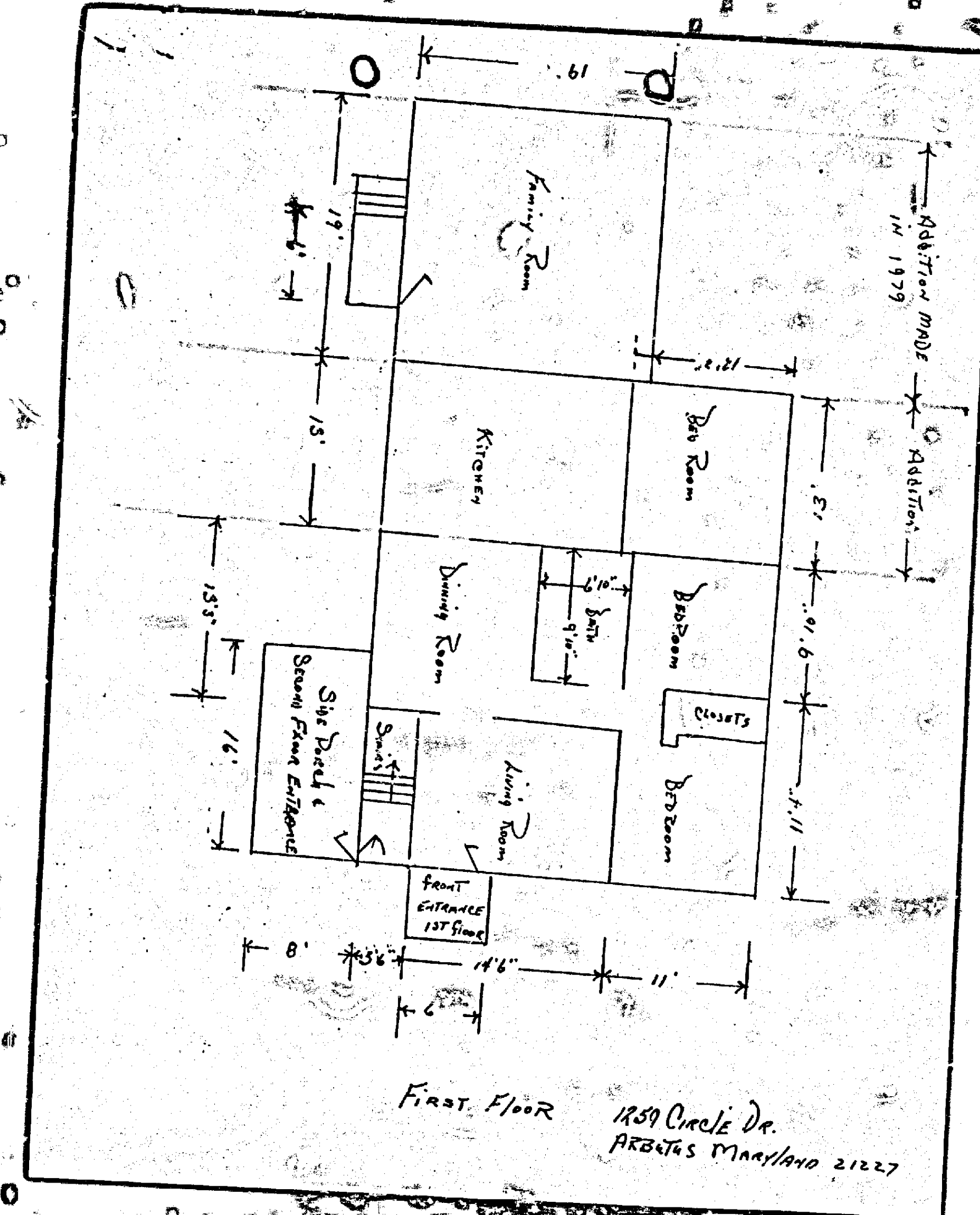
Joseph A. Novak  
Affiant (Handwritten Signature)  
JOSEPH A. NOVAK  
Affiant (Printed Name)  
1233 TEN OARS RD 21227  
Address

I have personal knowledge that the home located at 1259 Circle Dr., Arbutus, MD 21227 has been occupied as a two (two, three, etc.) apartment dwelling since NOV. 1944 (month) (year). I also have personal knowledge that all apartments within the dwelling have been occupied as such continuously and without interruption of more than one (1) year during any one period since NOV. 1944 (month) (year). This personal knowledge is based upon: ORIGINAL OWNER GRAY WARD was personally known to me and worked with me.

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:  
I HEREBY CERTIFY, this 27 day of September, 1989, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Joseph A. Novak, the Affiant, herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.  
AS WITNESS my hand and Notarial Seal.

NOTARY PUBLIC  
My Commission Expires: July 1, 1990

Rev. 12/12/85 - 11



AFFIDAVIT

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

PETITIONERS EXHIBIT 2C

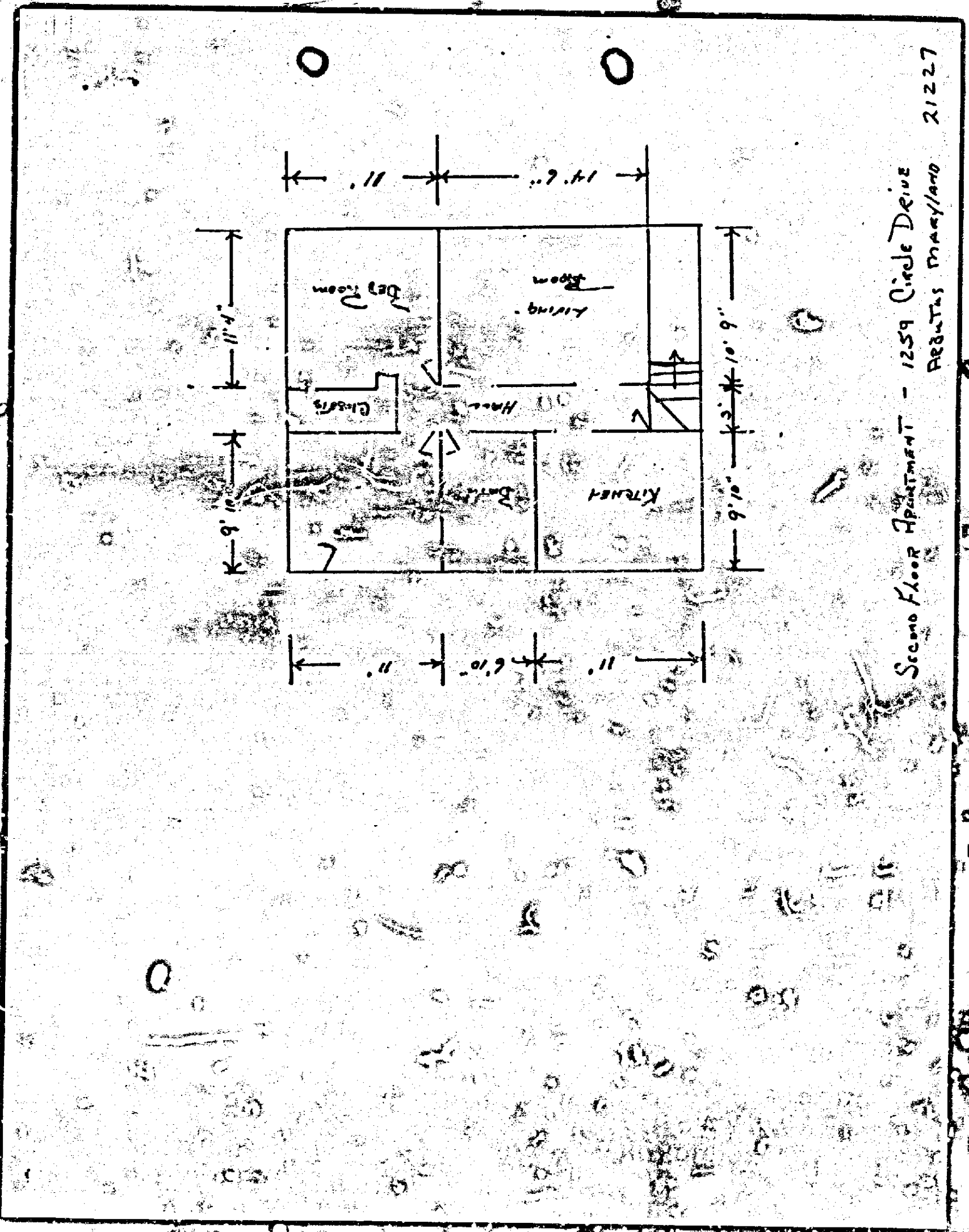
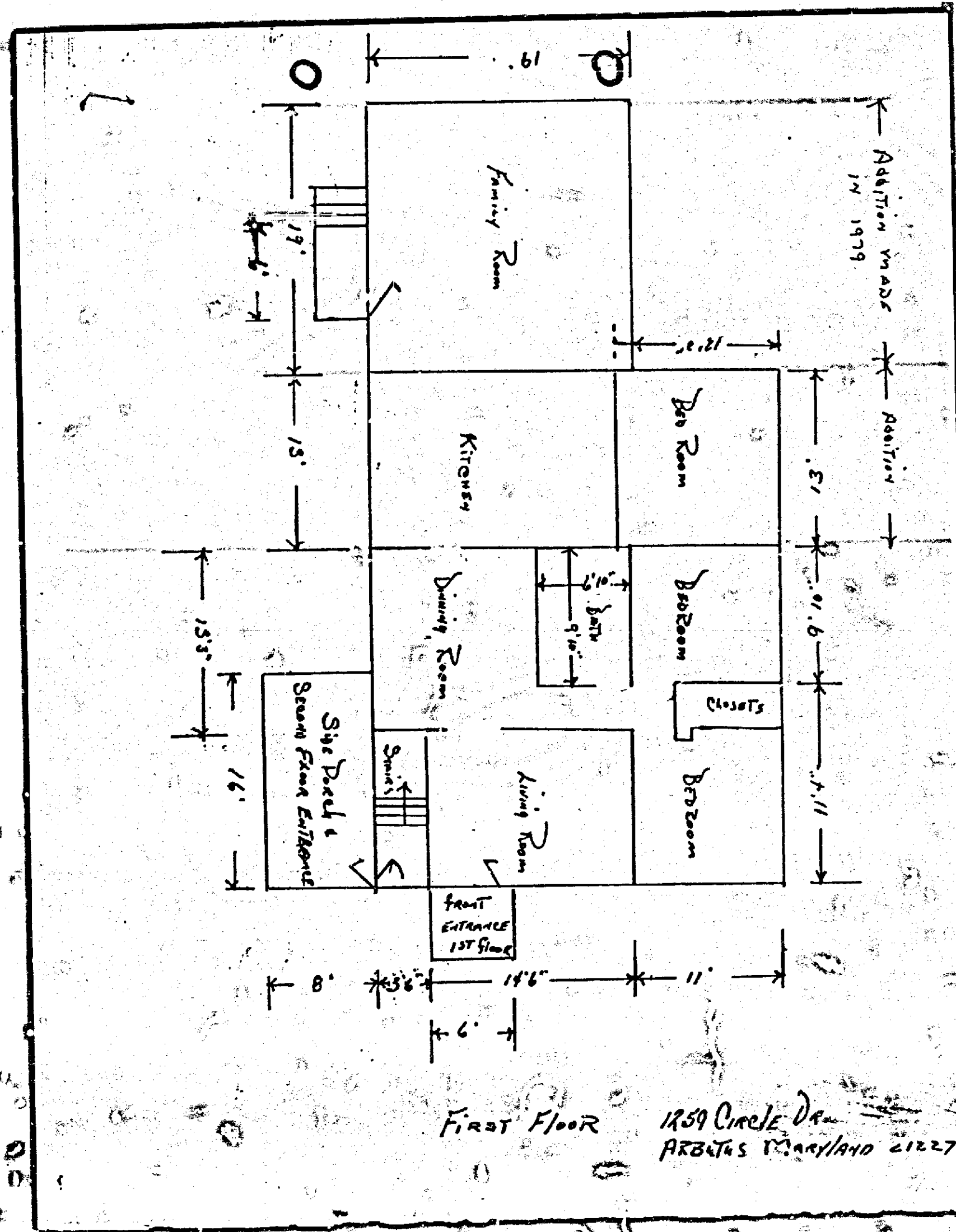
Charles H. Veckel  
Affiant (Handwritten Signature)  
CHARLES H. VECKEL  
Affiant (Printed Name)

I have personal knowledge that the home located at 1259 Circle Dr., Arbutus, MD 21227 has been occupied as a two (two, three, etc.) apartment dwelling since JANUARY 1946 (month) (year). I also have personal knowledge that all apartments within the dwelling have been occupied as such continuously and without interruption of more than one (1) year during any one period since JANUARY 1946 (month) (year). This personal knowledge is based upon: the date I took possession of my home January 1946 - 1233 Ten Oars Ave. 21227

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:  
I HEREBY CERTIFY, this 27 day of Sept, 1989, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Charles H. Veckel, the Affiant, herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.  
AS WITNESS my hand and Notarial Seal.

NOTARY PUBLIC  
My Commission Expires: July 1, 1990

Rev. 12/12/85 - 11





**PETITIONER'S EXHIBIT 24**

The undersigned hereby affirms under the penalty to the Zoning Commissioner of Baltimore that the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

William J. Baer  
AFFIANT (Handwritten Signature)  
WILLIAM J. BAER  
AFFIANT (Printed Name)  
1019 ELMRIDGE BL 21227  
Address

I have personal knowledge that the home located at 1259 Circle Drive - Apt 21227  
(Address)

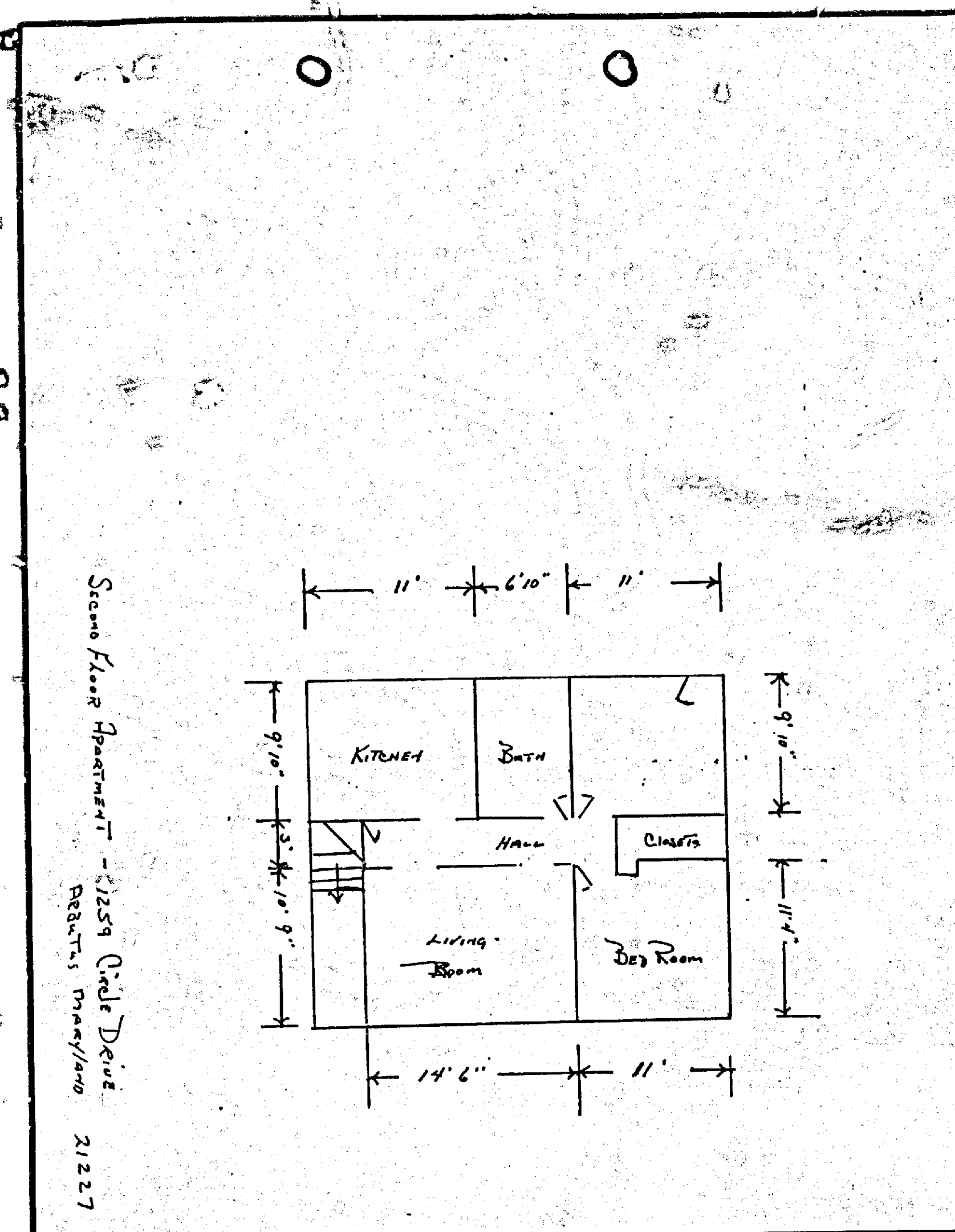
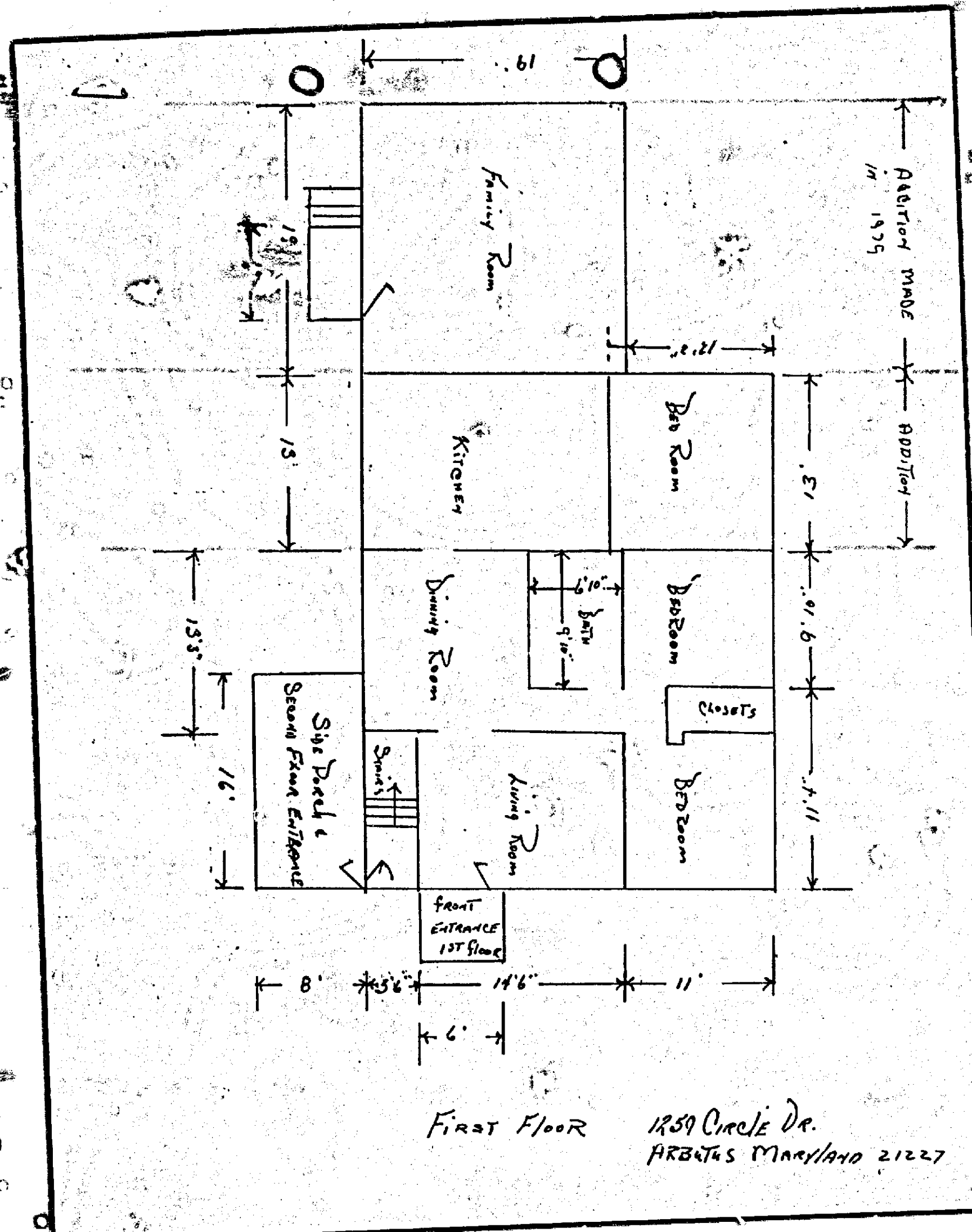
has been occupied as a two apartment dwelling since June, 1957. I also have personal knowledge that all apartments within the dwelling have been occupied as such continuously and without interruption of more than one (1) year during any one period since June, 1957. This personal knowledge is based upon: former owner was personal friend and know it was built as 2 apt

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:  
I HEREBY CERTIFY, this 27 day of Sept, 1989, before me, a Notary Public of the State of Maryland, and for the County aforesaid, personally appeared William J. Baer, the Affiant, herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

[Signature]  
NOTARY PUBLIC  
My Commission Expires: July 1, 1990

Rev. 12/12/85



**PETITIONER'S EXHIBIT 28**

The undersigned hereby affirms under the penalty to the Zoning Commissioner of Baltimore that the information herein given is within the personal knowledge of the Affiant and Affiant is competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

John F. Beck  
AFFIANT (Handwritten Signature)  
John F. Beck  
AFFIANT (Printed Name)

I have personal knowledge that the home located at 1259 Circle Drive, Apt 21227  
(Address)

has been occupied as a two apartment dwelling since May, 1957. I also have personal knowledge that all apartments within the dwelling have been occupied as such continuously and without interruption of more than one (1) year during any one period since May, 1957. This personal knowledge is based upon: have been next door neighbor at 1257 Circle Drive 21227 also know original owner and current owner

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:  
I HEREBY CERTIFY, this 28 day of September, 1989, before me, a Notary Public of the State of Maryland, and for the County aforesaid, personally appeared John F. Beck, the Affiant, herein, personally known or satisfactorily identified to me as such Affiant, and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her knowledge and belief.

AS WITNESS my hand and Notarial Seal.

[Signature]  
NOTARY PUBLIC  
My Commission Expires:

Rev. 12/12/85

**PETITIONER'S EXHIBIT 4**

December 11, 1989

TO WHOM IT MAY CONCERN:

RE: William Gerber

This is to certify the Mr. William Gerber has been under my care since May 1988 for treatment of perforated diverticular disease. He has undergone multiple surgical procedures for this condition, has had a colostomy and is still followed on a regular basis. He is currently living in Florida and I would recommend that he not be required to travel back to Baltimore again in January because the length of this trip is quite hard on his medical condition.

Sincerely,  
B. R. B.  
BRS/mpe

LIBER 5159 PAGE 061

THIS DEED, Made this fourteenth day of January, 1989, in the year one thousand nine hundred and seventy-one, by and between GRADY WARD and ELEANOR A. WARD, his wife, of the first part, and WILLIAM J. GERBER and SYLVIA L. GERBER, his wife, of the second part.

Witnesseth, that in consideration of the sum of Five Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said parties of the first part do hereby grant and convey unto the said parties of the second part, as tenants by the entireties, their heirs and assigns, in fee simple, all that lot(s) of ground, situate, lying and being in Baltimore County, State of Maryland, and described as follows, that is to say:—

Beginning for the same on the southwest side of Circle Drive (formerly known as First Avenue) (40 feet wide) at the distance of 275 feet northwesterly from the corner formed by the intersection of the southwest side of Circle Drive and the northwest side of Leeds Avenue, running thence northwesterly binding on the southwest side of Circle Drive 50 feet, thence southwesterly and parallel with Leeds Avenue 250 feet to the lot thence southeasterly conveyed to one Kratz, thence southeasterly binding on said lot of ground heretofore conveyed to one Kratz 50 feet and thence on the southwest side of Circle Drive the place of beginning. Meaning that and intending to convey Lot No. 10 on the Plat of Leeds, which Plat is recorded among the Plat Records of Baltimore County in Plat Book W.P.C. No. 5, folio 41. The improvements thereon being known as No. 1259 Circle Drive.

BEING the same lot of ground which by Deed, dated December 20, 1940, and recorded among the Land Records of Baltimore County in Liber C.W.B. Jr. No. 1140, folio 330, was granted and conveyed by John H. Drieslein and wife unto the said parties of the first part, the name of Eleanor having been erroneously misspelled in said Deed.

TAX \$150.00 REC. JAN 18 1971  
STATE PROPERTY TRANSFER 45000/MS

LIBER 5159 PAGE 062

Together with the buildings and improvements thereon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or otherwise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said parties of the second part, as tenants by the entireties, their heirs and assigns, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property granted and that they will execute such further assurances of the same as may be requisite.

Witness the hand and seals of said grantors

TEST: Grady Ward [SEAL]  
Eleanor A. Ward [SEAL]

FLORIDA  
State of Maryland COUNTY OF Baltimore, to wit:  
I HEREBY CERTIFY, That on this 4th day of January, 1971, before me, the subscriber, a Notary Public of the State of Florida, in and for Florida, personally appeared GRADY WARD and ELEANOR A. WARD, his wife, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein stated; and in my presence signed and sealed the same.

In Witness Whereof, I hereunto set my hand and official seal.

Eva Van H. Taylor  
Eva Van H. Taylor, Notary Public  
Rec'd for record JAN 18 1971 at 2:12 PM  
My Commission Expires January 15, 1974

Prepared by Mr. [Name] File # 6604

2-28-226

DEED

GRADY WARD and ELEANOR A. WARD, his wife, of the first part, and WILLIAM J. GERBER and SYLVIA L. GERBER, his wife, of the second part.

BOOK NO. 1140, PAGE 330

Recorded for record JAN 18 1971 at 2:12 PM

In Liber 5159, Page 061, of the Plat of Leeds, which Plat is recorded among the Plat Records of Baltimore County in Plat Book W.P.C. No. 5, folio 41.

Cost of Record, \$150.00

COX 9



[illegible]

Hand-drawn floor plan of the first floor of a house. The plan includes a Family Room (19' x 15'), Kitchen (15' x 15'), Dining Room (15' x 15'), Living Room (15' x 15'), two Bedrooms (10' x 10' and 10' x 10'), a Bath (5' x 5'), a Staircase, a Front Entrance (15' x 15'), and a Side Deck & Screened Patio. The plan is labeled with dimensions and room names. A note at the bottom right reads "FIRST FLOOR 1539 CIRCLE DR. ARBETAS MARYLAND 21227".

POWER OF ATTORNEY

KNOW YE ALL MEN BY THESE PRESENTS:

That on this 4th day of October, 1939, I, SYLVIA L. GERBER, 1259 Circle Drive, Baltimore, Maryland, 21227; have made, constituted and appointed and by these presents do make, constitute and appoint VERNON NEILSON as my true and lawful attorney, for me, in my name, place and stead, to do any of the following acts and deeds in the State of Maryland, or in any other State, that I may lawfully do in said state, through or by an attorney in fact, as fully as I could do if personally there present:

1. The power to act on my behalf with regard to the property located at 1259 Circle Drive, Baltimore County, Maryland and specifically to appear at the hearing scheduled before the Zoning Commission of Baltimore County and to sign any and all documents pertaining to the disposition thereof.
2. The power to make any payments and expenditures as may be necessary in connection with the above matter.

This Power of Attorney may be voluntarily revoked alone by revocation endorsed hereon or, if this Power be recorded, by revocation entered on record in the office of the Clerk of the Circuit Court for Baltimore County, Maryland; and until revocation is thus effected, all acts of this attorney are hereby ratified and affirmed.

I hereby expressly provide that the powers herein granted shall not be limited or affected by any illness or physical and mental incapacity which I may suffer, it being my intention that these powers shall continue during my entire lifetime unless expressly revoked as herein provided.

And in case any act, thing or things which said attorney or his substitutes are hereby authorized and empowered to do for me, shall be done by him after my death but before he shall have received notice of my death, the same shall be binding upon my heirs, executors and administrators as the same would have been if I had been alive at the time.

All acts of my said attorney shall be valid and binding on all persons, and no action of any Court shall be required to authenticate any actions

**EXHIBIT 34**

WORKMAN, STILES  
and MCGINLEY, P. A.  
ATTORNEYS AT LAW  
1820 LINCOLN AVE.  
BALTIMORE, MD. 21204

of my said attorney; nor shall any person dealing with my said attorney be required to see to the application of any proceeds delivered to him.

The Power of Attorney herein granted shall apply to the real property located at 1259 Circle Drive, Baltimore County, Maryland.

WITNESS:

Sandra A. McKeldin Sylvia L. Gerber (SEAL)  
Name SYLVIA L. GERBER  
2753 Nguyen P.D.  
Address  
Baltimore Md 21227

STATE OF MARYLAND, Baltimore COUNTY, to wit:

I HEREBY CERTIFY that on this 4th day of October, 1989, before me, the subscriber, a Notary Public in the State of Maryland, personally appeared SYLVIA L. GERBER, known to me to be the person whose name is subscribed to the within Instrument, and she acknowledged that she executed same for the purposes therein contained after being duly sworn upon her oath according to law.

AS WITNESS my hand and Notarial Seal.

Sandra A. McKeldin  
NOTARY PUBLIC

My Commission expires: 7-1-90

Sandra A. McKeldin  
NOTARY PUBLIC  
Baltimore County  
State of Maryland

WORKMAN, STYLES  
and MCCORMICK, P. A.  
ATTORNEYS AT LAW  
1800 LANTANA AVE.  
ANNEAPOLIS, MD. 21403  
B.C. 4416

POWER OF ATTORNEY

KNOW YE ALL MEN BY THESE PRESENTS:

That on this 4th day of October, 1989, I, WILLIAM J. GERBER, 1259 Circle Drive, Baltimore County, Maryland, 21227; have made, constituted and appointed and by these presents do make, constitute and appoint VERNON NEILSON as my true and lawful attorney, for me, in my name, place and stead, to do any of the following acts and deeds in the State of Maryland, or in any other State, that I may lawfully do in said state, through or by an attorney in fact, as fully as I could do if personally there present:

1. The power to act on my behalf with regard to the property located at 1259 Circle Drive, Baltimore County, Maryland and specifically to appear at the hearing scheduled before the Zoning Commission of Baltimore County and to sign any and all documents pertaining to the disposition thereof.
2. The power to make any payments and expenditures as may be necessary in connection with the above matter.

This Power of Attorney may be voluntarily revoked alone by revocation, endorsed hereon or, if this Power be recorded, by revocation entered on record in the Office of the Clerk of the Circuit Court for Baltimore County, Maryland and until revocation is thus effected, all acts of this attorney are hereby ratified and affirmed.

I hereby expressly provide that the powers herein granted shall not be limited or affected by any illness or physical and mental incapacity which I may suffer, it being my intention that these powers shall continue during my entire lifetime unless expressly revoked as herein provided.

And in case any act, thing or things which said attorney or his substituted are hereby authorized and empowered to do for me, shall be done by him after my death but before he shall have received notice of my death, the same shall be binding upon my heirs, executors and administrators as the same would have been if I had been alive at the time.

All acts of my said attorney shall be valid and binding on all persons and no action of any Court shall be required to authorize or ratify any action

**PETITIONER'S  
EXHIBIT 3B**

WORMEHAJ, STILES  
and MCCORMICK, P. A.  
ATTORNEYS AT LAW  
1880 LINCOLN AVE.  
ARLINGTON, MD. 21227  
811-0414

-2-

of my said attorney; nor shall any person dealing with my said attorney be required to see to the application of any proceeds delivered to him.

The Power of Attorney herein granted shall apply to the real property located at 1259 Circle Drive, Baltimore County, Maryland.

WITNESS:

*Sandra A. McKelvin*  
NAME  
5733 Noyes Rd  
Address  
Baltimore MD 21227

*William J. Berger*  
WILLIAM J. BERGER (SEAL)

STATE OF MARYLAND, *Baltimore* COUNTY, to wit:

I HEREBY CERTIFY that on this *24th* day of *October*, 1989,

before me, the subscriber, a Notary Public in the State of Maryland, personally appeared *WILLIAM J. BERGER*, known to me to be the person whose name is subscribed to the within instrument, and he acknowledged that he executed same for the purposes therein contained after being duly sworn upon his oath according to law.

AS WITNESS My hand and Notarial Seal.

*Sandra A. McKelvin*  
NOTARY PUBLIC

My Commission expires: *7-1-90*

Sandra A. McKelvin  
NOTARY PUBLIC  
Baltimore County  
State of Maryland

WORMEAN, STYLES  
and MCKINLEY, P. A.  
ATTORNEYS AT LAW  
1800 LINDSEY AVE.  
ARLINGTON, MD. 21047  
SAB-6416







**Baltimore County Zoning Commission**  
County Office Building  
111 West Calver Avenue  
Towson, Maryland 21204

Account R-0614150  
Number **1012**

Date **1/17/90**

**90-289-SPHA**

Public Hearing Fees  
000 - POSTING SIGNS / ADVERTISING 12  
TOTAL: \$137.14

LAST NAME OF OWNER: GERBER

8 105 \*\*\*\*\*13714 to 517LF

Cashier Validation

**1st Floor Kitchen & Hallway**

**2nd Floor Kitchen**

**1st Floor Kitchen**

**1st Floor Caller Hallway**

**2nd Fl. Hallway**

**WONNEMAN, STYLES AND MCCONKEY, P.A.**  
ATTORNEYS AT LAW  
1800 LINDEN AVE.  
ARLINGTON, MD. 21017  
842-4414

PLEASE PRINT CLEARLY

**PETITIONER SIGN-IN SHEET**

NAME	ADDRESS
Vernon L. Nelson	1514k Pine Rd
on Behalf of William & Sylvia Gerber	Towson, MD 21204
James A. Nelson	1259 Circle Dr.
Arbutus, Md. 21227	
Joseph A. Novak	1232 Ten Oaks Rd
Arbutus, Md. 21227	
Charles W. Yeakel	1234 North Ave
Arbutus, Md. 21227	

**PROTESTANT(S) SIGN-IN SHEET**

NAME	ADDRESS
Mr. Robert Haines	1259 Circle Drive #21227

**ZONING COMMISSION OF BALTIMORE COUNTY**

VS.

WILLIAM J. GERBER  
and  
SYLVIA L. GERBER, his wife

Case No: C-90-499  
Item No: 146

RE: 1259 Circle Drive  
Baltimore, Maryland 21227

**SUBPOENA**

Commissioner Haines:  
Please issue a Subpoena directed to and to be served upon:  
WILLIAM J. BAER 242-6727  
1019 Elmridge Road  
Baltimore, Maryland 21227

commanding him to be and appear before the Zoning Commission of Baltimore County, Room 106, County Office Building, Towson, Maryland, 21204; on **JANUARY 17, 1990** at 2:00 p.m. and then and there be prepared to testify for the Defendants.

**ELMER L. MCCONKEY, ESQUIRE**  
Wonneman, Styles & McConkey, P.A.  
1320 Linden Avenue  
Arbutus, Maryland 21227  
242-4414  
Attorney for Defendants

Mr. Sheriff/Private Process Server:  
Please process in accordance with Zoning Commission Rule IV(c).

**RECEIVED**  
JAN 10 1990  
ZONING OFFICE

**ZONING COMMISSION OF BALTIMORE COUNTY**

VS.

WILLIAM J. GERBER  
and  
SYLVIA L. GERBER, his wife

Case No: C-90-499  
Item No: 146

RE: 1259 Circle Drive  
Baltimore, Maryland 21227

**SUBPOENA**

Commissioner Haines:  
Please issue a Subpoena directed to and to be served upon:  
JOSEPH A. NOVAK 242-5182  
1232 Ten Oaks Road  
Baltimore, Maryland 21227

commanding him to be and appear before the Baltimore County Zoning Commission, Room 106, County Office Building, Towson, Maryland, 21204; on **JANUARY 17, 1990** at 2:00 p.m. and then and there be prepared to testify for the Defendants.

**ELMER L. MCCONKEY, ESQUIRE**  
Wonneman, Styles & McConkey, P.A.  
1320 Linden Avenue  
Arbutus, Maryland 21227  
242-4414  
Attorney for Defendants

Mr. Sheriff/Private Process Server:  
Please process in accordance with Zoning Commission Rule IV(c).

**RECEIVED**  
JAN 10 1990  
ZONING OFFICE

**ZONING COMMISSION OF BALTIMORE COUNTY**

VS.

WILLIAM J. GERBER  
and  
SYLVIA L. GERBER, his wife

Case No: C-90-499  
Item No: 146

RE: 1259 Circle Drive  
Baltimore, Maryland 21227

**SUBPOENA**

Commissioner Haines:  
Please issue a Subpoena directed to and to be served upon:  
SHIRLEY F. ROWE 242-2829  
1261 Circle Drive  
Baltimore, Maryland 21227

commanding her to be and appear before the Baltimore County Zoning Commission, Room 106, County Office Building, Towson, Maryland, 21204; on **JANUARY 17, 1990** at 2:00 p.m. and then and there be prepared to testify for the Defendants.

**ELMER L. MCCONKEY, ESQUIRE**  
Wonneman, Styles & McConkey, P.A.  
1320 Linden Avenue  
Arbutus, Maryland 21227  
242-4414  
Attorney for Defendants

Mr. Sheriff/Private Process Server:  
Please process in accordance with Zoning Commission Rule IV(c).

**RECEIVED**  
JAN 10 1990  
ZONING OFFICE

**ZONING COMMISSION OF BALTIMORE COUNTY**

VS.

WILLIAM J. GERBER  
and  
SYLVIA L. GERBER, his wife

Case No: C-90-499  
Item No: 146

RE: 1259 Circle Drive  
Baltimore, Maryland 21227

**SUBPOENA**

Commissioner Haines:  
Please issue a Subpoena directed to and to be served upon:  
CHARLES H. YEAKEL 242-3147  
1226 North Avenue  
Baltimore, Maryland 21227

commanding him to be and appear before the Baltimore County Zoning Commission, Room 106, County Office Building, Towson, Maryland, 21204; on **JANUARY 17, 1990** at 2:00 p.m. and then and there be prepared to testify for the Defendants.

**ELMER L. MCCONKEY, ESQUIRE**  
Wonneman, Styles & McConkey, P.A.  
1320 Linden Avenue  
Arbutus, Maryland 21227  
242-4414  
Attorney for Defendants

Mr. Sheriff/Private Process Server:  
Please process in accordance with Zoning Commission Rule IV(c).

**RECEIVED**  
JAN 5 1990  
ZONING OFFICE

**ZONING COMMISSION OF BALTIMORE COUNTY**

VS.

WILLIAM J. GERBER  
and  
SYLVIA L. GERBER, his wife

Case No: C-90-499  
Item No: 146

RE: 1259 Circle Drive  
Baltimore, Maryland 21227

**SUBPOENA**

Commissioner Haines:  
Please issue a Subpoena directed to and to be served upon:  
VIVIAN L. ALBERTER 247-2535  
1259 Circle Drive  
Baltimore, Maryland 21227

commanding her to be and appear before the Zoning Commission of Baltimore County, Room 106, County Office Building, Towson, Maryland, 21204; on **JANUARY 17, 1990** at 2:00 p.m. and then and there be prepared to testify for the Defendants.

**ELMER L. MCCONKEY, ESQUIRE**  
Wonneman, Styles & McConkey, P.A.  
1320 Linden Avenue  
Arbutus, Maryland 21227  
242-4414  
Attorney for Defendants

Mr. Sheriff/Private Process Server:  
Please process in accordance with Zoning Commission Rule IV(c).

**RECEIVED**  
JAN 5 1990  
ZONING OFFICE



**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District 13th Date of Posting 12-26-89  
 Posted for: Special Hearing - Variance  
 Petitioner: William J. Gerber et al  
 Location of property: SW/4 of Circle Drive, 275' N.W. of  
Circle Drive, 13th Cir. Drive  
 Location of Sign: at front of 13th Cir. Drive

Remarks: 1/2 inch Date of return: December 29-89  
 Number of Signs: 2

**CERTIFICATE OF PUBLICATION**

December 22, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in the ARBUSUS TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Dec 20, 1989.

ARBUSUS TIMES  
S. Zebe Olson  
Publisher

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on the date and at the time specified below.  
 Petition for Special Hearing and Zoning Variance  
 Case Number: 90-289-SPHA  
 SW/4 Circle Drive, 275' N.W. of Circle Drive and 13th Cir. Drive  
 13th Election District - 1st Councilmanic  
 Petitioner(s): William J. Gerber, et al  
 Hearing: Wednesday, January 17, 1990 at 2:00 p.m.  
 Please be advised that the fee for advertising and posting of the above captioned property is \$157.14. This fee must be paid and the zoning sign and post set(s) returned on the day of the hearing or the order shall not issue. Do not remove the sign and post set(s) from the property until the day of the hearing.  
 Please make your check payable to Baltimore County, Maryland. Bring the check and the sign and post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204, fifteen (15) minutes before your hearing is scheduled to begin.  
 Be advised that should you fail to return the sign and post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.  
 Very truly yours,  
 J. Robert Haines  
 Zoning Commissioner  
 Elmer L. McCorkay, Esq.

**CERTIFICATE OF PUBLICATION**

December 27, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Dec 21, 1989.

THE JEFFERSONIAN  
S. Zebe Olson  
Publisher

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204, on the date and at the time specified below.  
 Petition for Special Hearing and Zoning Variance  
 Case Number: 90-289-SPHA  
 SW/4 Circle Drive, 275' N.W. of Circle Drive and 13th Cir. Drive  
 13th Election District - 1st Councilmanic  
 Petitioner(s): William J. Gerber, et al  
 Hearing: Wednesday, January 17, 1990 at 2:00 p.m.  
 Please be advised that the fee for advertising and posting of the above captioned property is \$157.14. This fee must be paid and the zoning sign and post set(s) returned on the day of the hearing or the order shall not issue. Do not remove the sign and post set(s) from the property until the day of the hearing.  
 Please make your check payable to Baltimore County, Maryland. Bring the check and the sign and post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204, fifteen (15) minutes before your hearing is scheduled to begin.  
 Be advised that should you fail to return the sign and post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.  
 Very truly yours,  
 J. Robert Haines  
 Zoning Commissioner  
 Elmer L. McCorkay, Esq.

**Baltimore County**  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

DATE 1/12/90

Mr. & Mrs. William J. Gerber  
1259 Circle Drive  
Baltimore, Maryland 21227

Re: Petition for Special Hearing and Zoning Variance  
 CASE NUMBER: 90-289-SPHA  
 SW/4 Circle Drive, 275' N.W. from intersection with  
 SW/4 Circle Drive and NW/4 Leedes Avenue  
 1259 Circle Drive  
 13th Election District - 1st Councilmanic  
 Petitioner(s): William J. Gerber, et al  
 HEARING: WEDNESDAY, JANUARY 17, 1990 at 2:00 p.m.

Dear Mr. & Mrs. Gerber:

Please be advised that \$157.14 is due for advertising and posting of the above captioned property.

**THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN AND POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.**

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign and post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204, fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign and post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,  
 J. Robert Haines  
 ZONING COMMISSIONER  
 Elmer L. McCorkay, Esq.

**Baltimore County**  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

DATE 1/12/90

Mr. & Mrs. Gerber  
1259 Circle Drive  
Baltimore, Maryland 21227

**NOTICE OF HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing and Zoning Variance  
 CASE NUMBER: 90-289-SPHA  
 SW/4 Circle Drive, 275' N.W. from intersection with  
 SW/4 Circle Drive and NW/4 Leedes Avenue  
 1259 Circle Drive  
 13th Election District - 1st Councilmanic  
 Petitioner(s): William J. Gerber, et al  
 HEARING: WEDNESDAY, JANUARY 17, 1990 at 2:00 p.m.

Special Hearing: A Nonconforming use of the subject property for two apartments. Variance: to permit an existing two apartment dwelling on a lot with a 50 ft. width at front building line in lieu of the required 80 ft. with a minimum side yard setback of 3 ft. and sum of both side yards of 8 ft. in lieu of the required 15 ft. and 35 ft. respectively.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

**NOTE:**  
 (If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3361 to confirm hearing date.)

J. Robert Haines  
 ZONING COMMISSIONER  
 BALTIMORE COUNTY, MARYLAND  
 Elmer L. McCorkay, Esq.

**BALTIMORE COUNTY, MARYLAND**  
INTER-OFFICE CORRESPONDENCE

#1416  
90-289-SPHA

TO: James Dyer  
Zoning Supervisor

FROM: James Thompson  
Zoning Enforcement Coordinator

SUBJECT: Item No. 146 (If known)  
 Petitioner: McGee, G. B. (If known)

DATE: 1/24/89

VIOLATION CASE # 90-499  
 LOCATION OF VIOLATION 1259 Circle Dr 21227  
 DEFENDANT Mrs. Mrs. Gerber ADDRESS SOME

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME ADDRESS  
 Patricia Lindade 1257 Circle Dr 21227  
 Mrs. Ehlig 1258 Circle Dr 21227

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.